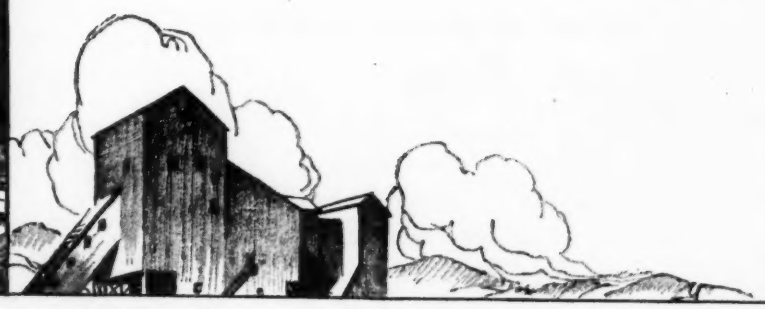
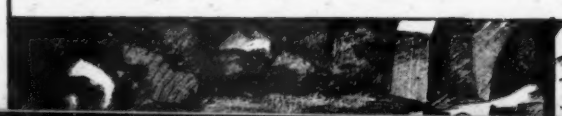
The CRUSHED STONE JOURNAL



OFFICIAL PUBLICATION • NATIONAL CRUSHED STONE ASSOCIATION



The Crushed Stone Journal

Official Publication of the NATIONAL CRUSHED STONE ASSOCIATION

J. R. BOYD, Editor

In This Issue

Published by the
NATIONAL CRUSHED STONE ASSOCIATION
Editorial Office
Munsey Building
Washington, D. C.

The Crushed Stone Journal

Official Publication of the NATIONAL CRUSHED STONE ASSOCIATION

THE CRUSHED STONE JOURNAL

WASHINGTON, D. C.

VOLUME 10 NUMBER 3 DECEMBER, 1935

INSTITUTE DAY AT ST. LOUIS

"Institute Day", Wednesday, January 29, will be an outstanding feature of the activities to be held at the Jefferson Hotel, St. Louis, Missouri, during the week of January 27, 1936. Under the auspices of the Mineral Aggregates Institute, the National Crushed Stone Association, the National Sand and Gravel Association, and the National Slag Association (meeting concurrently in annual conventions at the Jefferson Hotel during that week) will jointly participate in a program of outstanding interest and significance to all members of the aggregates industries. The subjects to be presented, coupled with the imposing array of speakers who will present them, should certainly command your enthusiastic interest. The completed program for "Institute Day" is as follows:

Program for Institute Day

Presiding Officer - Otho M. Graves, Chairman,
Mineral Aggregates Institute

10:00 A. M. "The Function of Federal Public Works in the Stimulation of Industrial Recovery"
by Col. H. B. Hackett, Assistant Administrator, Federal Emergency Administration of Public Works

10:30 A. M. Discussion of Col. Hackett's address.

11:00 A. M. "Analysis of Social Security and Labor Legislation"
by John C. Gall, Associate Counsel of the National Association of Manufacturers.

11:30 A. M. Discussion of Mr. Gall's address.

12:00 M. Recess

2:00 P. M. "The Future of Industrial Cooperation Under Governmental Auspices."
by Abram F. Myers, former member of the Federal Trade Commission and an outstanding attorney

2:30 P. M. Discussion of Mr. Myers' address.

3:00 P. M. Address by Col. Willard T. Chevalier, Vice-President, McGraw-Hill Publishing Co. (Title to be selected later)

THE
CRUSHED STONE JOURNAL
WASHINGTON, D. C.

VOLUME 10 NUMBER 8 DECEMBER, 1956

INSTITUTE DAY AT ST. LOUIS

"Institute Day", Wednesday, January 29, will be an outstanding feature of the activities to be held at the Jefferson Hotel, St. Louis, Missouri, during the week of January 27, 1956. Under the auspices of the Mineral Aggregates Institute, the National Crushed Stone Association, the National Sand and Gravel Association, and the National Ready Mixed Concrete Association (meeting concurrently in annual conventions at the Jefferson Hotel during that week) will jointly participate in a program of outstanding interest and significance to all members of the aggregates industries. The subjects to be presented, coupled with the imposing array of speakers who will present them, should certainly command your enthusiastic interest. The completed program for "Institute Day" is as follows:

Program for Institute Day

Presiding Officer - Odin M. Greves, Chairman,
Mineral Aggregates Institute

10:00 A. M. "The Function of Federal Public Works in the Stimulation of Industrial Recovery"
by Col. E. E. Kenneth, Assistant Administrator,
Federal Emergency Administration of Public Works

10:30 A. M. Discussion of Col. Kenneth's address.

11:00 A. M. "Analysis of Social Security and Labor Legislation"
by John C. Gall, Associate Counsel of the National
Association of Manufacturers.

11:30 A. M. Discussion of Mr. Gall's address.

12:00 M. Recess

2:00 P. M. "The Future of Industrial Cooperation Under Governmental Auspices."
by Abram F. Myers, former member of the Federal
Trade Commission and an outstanding attorney

2:30 P. M. Discussion of Mr. Myers' address.

3:00 P. M. Address by Col. Willard T. Chevalier, Vice-President,
McGraw-Hill Publishing Co. (Title to be selected later)

3:30 P. M. Discussion of Col. Chevalier's address.

4:00 P. M. General discussion of program and activities of Mineral Aggregates Institute.

5:00 P. M. Adjournment.

It will be noted that each of the topics selected is of increasing importance to our industry. Aside from the fact that Federal Public Works seem destined to become a decidedly important issue in the forthcoming presidential campaign, this type of federal activity, perhaps beyond any other, intimately involves the producers of aggregates. There is much in connection with the present administration of the Public Works program to cause us real concern, particularly with regard to the encroachment of government in the field of aggregate production. The opportunity, therefore, of hearing Col. Hackett discuss " The Function of Federal Public Works in the Stimulation of Industrial Recovery " should guarantee the attendance at St. Louis of every crushed stone producer in the country. During the discussion following Col. Hackett's talk a clarification of many of the disturbing factors involved in the present public works program should be obtained.

As each day passes the Social Security legislation enacted by the last session of Congress looms larger on the horizon of business men. It is generally conceded that the task of administering the Social Security Act is one of the most stupendous which has ever confronted the Government. It is further acknowledged that the success or failure of the Act will very largely be determined by the manner in which it is administered. It is our positive conviction that no one in the country is better qualified to discuss this legislation than John C. Gall, Associate Counsel of the National Association of Manufacturers. The information which you will obtain from Mr. Gall's discussion should more than compensate for the trip to St. Louis.

Since the invalidation of codes of fair competition there has been a revived interest in the activities of the Federal Trade Commission and a desire on the part of business men to know the extent to which industrial cooperation is permitted under existing statutes, or which may be permitted under statutes yet to be enacted. Abram F. Myers, formerly a member of the Commission, will give us the benefit of his very wide experience in this field and his discussion should prove of real value.

Col. Willard T. Chevalier, Vice-President of the McGraw-Hill Publishing Co. has not advised us as yet as to the exact title of his address, but we can be sure that he will have some most interesting and valuable observations to make concerning the problems of today and the outlook for the future in the construction industry.

Concluding the program for "Institute Day", there will be a general discussion of the program and activities of the Mineral Aggregates Institute. This essentially will be an open forum of the mineral aggregates industries with all who are present privileged to participate. The importance of the matters to be considered at that time cannot be over-emphasized nor should we be unmindful of the opportunity afforded through the Institute of formally ex-

pressing the views and opinions of aggregates producers on matters of national import to the three industries.

You will note elsewhere in this issue that Otho M. Graves, Chairman of the Board of Governors of the Mineral Aggregates Institute, has recently directed two letters to former chairmen of the regional committees of the Code Authority, copies of which have been sent to former members of the Code Authority. One letter seeks advice concerning such voluntary agreements as are now in operation within the aggregates industries and the other requests an expression of judgment as to the attitude which the Institute should take towards legislation with specific reference to the Walsh Bill, the Shannon-Clark Bill, and the Thirty-Hour Bill. Appointment is now being made of a Resolutions Committee whose personnel will consist of representation from each of the three member Associations of the Institute. It will be the responsibility of this committee to present for consideration the considered opinion of the three aggregates industries on matters of mutual interest. It will be the responsibility of the members of these industries to participate fully in the discussion of such resolutions and if necessary to submit resolutions on matters which may not be covered by the Resolutions Committee. In order that the viewpoint of our industries may be definitely known to the various governmental agencies, every producer of crushed stone in the country should be present at St. Louis and participate in this extremely important part of the St. Louis program.

Information has already been made available through these columns concerning the program of the Nineteenth Annual Convention of the National Crushed Stone Association which will open at the Jefferson Hotel, St. Louis, on Monday, January 27. This program is now in the final stages of completion and will be released in detail immediately following the first of the year.

The sale of booth space for the Joint Exposition of the Manufacturers' Divisions of the National Crushed Stone Association and the National Sand and Gravel Association is exceeding our most optimistic expectations. Even at this early date more booths have been subscribed for than the total number occupied by exhibitors at the Joint Exposition of last year.

Hotel reservation cards and railroad certificates will be mailed shortly following the first of the year. Remember, all crushed stone producers of the United States and Canada are cordially invited to attend our convention in St. Louis and to participate in the proceedings, whether or not they are members of the National Crushed Stone Association. Make your plans now to attend.

****

STANDARD SIZES OF COARSE AGGREGATES

At various times during the past fifteen years several attempts have been made to standardize the sizes of aggregates most commonly used in construction work. In 1920 "A Tentative Specification for Commercial Sizes of Sand and Gravel for Highway Construction" was published by the American Society for Testing Materials. (A. S. T. M. Serial Designation D64-20T) In 1923 there appeared a tentative "Specification for Commercial Sizes of Broken Stone and Broken Slag for Highway Construction." (A.S.T.M. Serial Designation D63 - 23T)

These tentative standards, however, were not considered sufficiently satisfactory and did not receive enough support to warrant their acceptance as standards. The Joint Technical Committee of the three national mineral aggregates associations has been concerned with the problem of size standardization for a number of years and in several instances a suggested table of standard sizes has been brought to the attention of the members of the National Crushed Stone Association.

Obstacles which prevented the acceptance of any of the standards thus far proposed have presented themselves. One of them was concerned with the very fundamental matter of methods for measuring the size of aggregates. There has been and still is a diversion of practice regarding sieves for measuring size. Some engineers prefer round opening laboratory screens and others specify square opening sieves. For a long time specifications for concrete aggregates have been written in terms of square openings, those for bituminous road work in terms of round openings. Gradually, however, many of the state highway departments in which round opening screens have previously been used are adopting square openings and, furthermore, the State Highway Officials' specifications and those of the Federal Specifications Board have been written in terms of square opening laboratory sieves. About half of the States are now using square opening sieves and, thus, the tendency most decidedly is toward the use of square opening sieves for determining the size and gradation of aggregates. Apparently, therefore, this obstacle to progress, the divergence in methods for measuring size, is being rapidly overcome.

The standardization of sizes of aggregates has been one of the major problems of the Joint Technical Committee of the national mineral aggregates associations during the past five or six years. The committee has conferred with representatives from the asphalt and tar industries and its own members are familiar with desirable gradations for coarse aggregates for concrete. Thus, in a preliminary way, the different points of view of allied industries regarding suitable gradations of aggregates for different types of work have been unified. Tentative agreement has been reached between the Joint Technical Committee and representatives of materials with which aggregates are combined regarding a suggested standard for size of aggregate. It is interesting to know that the specifications of many state highway departments are in agreement with those of the Joint Technical Committee except for certain variations in some of the sizes. Accordingly, the suggested standard, in large measure, is agreeable to or apparently meets the needs of a large group of consumers.

The standard in its present form will next be put through the routine procedure of the Division of Simplified Practice of the U. S. Department of Commerce with the idea of ultimately developing an American Standard for Sizes of Aggregates. This procedure, although not always handled in a uniform manner with all materials, will, at any rate, give producers and consumers an ample opportunity to raise objections to the standard or to agree to it as the case may be. You will be fully informed by the Division of Simplified Practice in the near future as to the details of the proposed standard and of their procedure and you will be asked to review the standard and give your views regarding it.

Possibly there may be uses for aggregates to which the standard sizes are not well adapted. If a large tonnage of those sizes is used for these particular purposes, then they should be standardized also; otherwise they will have to be made as special sizes. It is anticipated that uses may arise from time to time which will require the making of special sizes not covered in the table of sizes which you will receive shortly.

The proposed standard sizes are well worth your careful thought. Every effort has been made to specify sizes which can be made economically by an adequately equipped crushing and screening plant. Please remember that the sizes are stated in terms of laboratory square opening sieves and not in terms of your plant equipment. The fact that square opening sieves are used for the measurement of size does not preclude your using round openings in your plant screens if you so desire, provided they are made of such a diameter that material will be produced meeting the laboratory square opening sieve requirements. The proposed standards may ultimately be written into country-wide specifications and, consequently, they should be reviewed with care to determine the practicability of your conforming to them.

****

SUMMARY OF INVESTIGATIONS IN COLD LAID BITUMINOUS PAVEMENTS[1]

By

A. T. Goldbeck
Director, Bureau of Engineering
National Crushed Stone Association

The cold laid type of bituminous pavements is becoming increasingly important and it furnishes a substantial market for crushed stone. A number of different types of cold laid pavement have been developed, but the present investigations deal with only one of them, namely, the Amiesite pavement consisting essentially of aggregate, asphaltic cement, liquefier and hydrated lime.

The Amiesite type of pavement was developed many years ago by Dr. Joseph Hay Amies. When properly prepared and laid on a suitable foundation, it, in general, has given excellent results. Just as with other pavements, there have been failures which, in most cases, could have been avoided had the conditions of foundation, weather and traffic been properly evaluated and the appropriate mixtures been used for those particular conditions.

The present study was initiated for the purpose of developing that range in combination of materials which would be most likely to give satisfactory results. A study of the specifications of several of the state highway departments clearly indicated that no unanimity of opinion existed among those states as to proper specification limits for this type of mixture. For illus-

tration, the base course in one of the states was composed of stone of more or less uniform size, extending from approximately 5/8 to 1 inch, square openings, with a small amount of fines below the 5/8 inch size. In other states the top size was two inches and the gradation was such as to result in a very dense mixture, for there was a high percentage of fines, used to reduce the percentage of voids. Correspondingly, there was a wide difference of opinion among the states as to a proper specification for the gradation of the aggregate in the top course or wearing surface; top sizes of 1/2 in., 5/8 in. and 3/4 in. round openings, have been used. The gradations were such that the surfaces in some cases were very dense while in others they were quite open and porous. The difficulties experienced by Amiesite plants shipping into several adjoining states having such wide variations in specifications can readily be imagined and the extreme desirability of standardization, not only in the gradation, but in other essential features of the mix becomes quite apparent. Most states agree fairly well on the characteristics of the asphalt, although even here, there is lack of complete uniformity. The liquefier is a subject of contention, for where one state might require a highly volatile liquefier, another might desire that a heavier material be used. In spite of these variations in requirements in adjoining states, good service results, as a rule, have been obtained. Naturally, however, in attempting to standardize on a specification for this type of material, it was thought best to attempt to develop those gradations of aggregate, for both the base and surface courses, and those combinations of materials which would give optimum results. No attempt has been made in the present investigation to determine the merits of different types of liquefiers, primarily because of the difficulty of making a service test of liquefiers in the laboratory.

Desirable Characteristics

The ideal cold laid bituminous concrete pavement should have the following characteristics:

(1) It should be stable or resistant to shoving and displacement under the action of traffic.

(2) It should be durable or capable of high resistance to:

a. Ordinary highway traffic.
b. Extraordinary traffic conditions such as produced by vehicles equipped with tire chains running in restricted lanes.
c. Water action and freezing conditions over long periods.

(3) It should be capable of being shipped and re-handled from truck or car without excessive difficulty.

(4) It should be capable of being spread into place, either by hand or by mechanical spreading.

(5) It should be so graded that uniformity will be possible, that is, segregation must be minimized so that fines will not be prevalent in some spots and

coarse fragments in others. This leads to unequal compaction in rolling and to subsequent unequal compaction under traffic with a resulting development of roughness.

(6) Excessive fatness must be avoided, for this leads to bleeding, possible instability and slipperiness.

(7) It must be essentially an open type of surface, initially, for the asphalt has been softened by the use of a liquefier and this liquefier must be permitted to volatilize, and thus allow the asphalt to harden to the proper consistency. A too dense mixture or a too heavy liquefier defeats this purpose.

(8) It should be non-skid and should remain so.

Method of Investigation

The circular testing track of the National Crushed Stone Association was used to excellent advantage in the present investigations. It will be recalled that the track is 14 feet in mean diameter, 18 inches wide with 6-inch concrete curbs at the sides. Upon it is operated a rubber-tired wheel suitable for a two-ton motor truck and carrying a load of 1900 pounds. The usual procedure in making the investigation was first to lay test sections of the mixtures in the track, a number of mixtures being tested simultaneously. After laying the mixtures in a uniform, loose layer, they were rolled with a roller having a weight of 200 lb. per in. of width. The rolled mixtures were then cured to drive off the volatile material, or liquefier, this being accomplished by the use of warm air circulated over the surface of the test sections. Finally, when the curing was completed, depth readings were taken on the surface at three-inch intervals for comparison with subsequent readings after the test. In this way, the amount of vertical movement which took place under the action of the traffic could readily be determined. Two types of tests were made:

(a) Stability or Shoving Tests
and
(b) Durability Tests

The stability tests consisted of operating the rubber-tired wheel around the track in a groove. Those mixtures which were most unstable, in general, became most deeply rutted and, consequently, accumulated a ridge of the comparatively soft mixture along the sides of the rut, particularly on the inside, close to the path of the wheel. The most stable mixtures showed practically no rutting and no ridging of the mixture adjacent to the wheel. Such tests were ordinarily run under controlled temperature conditions, the temperature control being accomplished by means of a system of hot water pipes laid in the concrete base immediately below the bituminous surfacing. A temperature of 90° F. was ordinarily used for the stability test.

For the durability test, it was thought best to use conditions which would lead to the most rapid disintegration of the surface. Consequently, du-

rability tests were ordinarily run with the track just submerged in the water and the rubber-tired wheel was fitted with tire chains. It is advantageous to cool the surface almost to freezing temperatures to obtain the most accurate measure of durability of the respective sections. In one particular test this cooling was accomplished by the use of melting snow and by subjecting the laboratory to outside temperatures before running the test. It is surprising how rapidly disintegration of certain sections can be accomplished by these accelerated means. The test is so rapid that 1000 or 2000 passages of the chain-equipped wheel is enough to show very substantial differences between the various test sections. After such a test, the depth of the rut produced by the traffic is again measured by the use of a depth gage and thus a quantitative measure of the relative resistance of the sections is obtained.

Summary of the Test Results

In the present article it will be impossible, through lack of space, to touch on any of the details of the separate tests. In all, some 75 different mixtures have been tested with very consistent results.

Effect of Gradation

(a) Binder Course. Stability tests were made on binder courses having a wide range in gradation. The tests showed that high stability can be obtained with a mixture having an open gradation and likewise with densely graded mixtures. The most stable mix (No. 4) had the following gradation:

Sieve Opening	Total Per Cent Passing
1-1/2 in.	100
1-1/4 in.	100
1 in.	70
3/4 in.	40
1/2 in.	10
# 4	0
#16	0
#100	0

The next most stable mix (No. 5) contained more fine material than No. 4 and was graded as follows:

Sieve Opening	Total Per Cent Passing
1-1/2 in.	100
1-1/4 in.	100
1 in.	75
3/4 in.	50
1/2 in.	25
#4	10
#16	6
#100	0

The gradation given in section No. 4, not only resulted in the most stable binder course, but fortunately it lends itself to economical production and from both standpoints, its use seems desirable. It is well not to have excessive fines in the base course mixture for the following reasons:

(1) Segregation is minimized and therefore uniformity in the binder course is produced.

(2) By virtue of uniformity of texture, uniformity of compaction results.

(3) An open textured surface is produced suitable for thorough keying by the top course.

(4) Economy in the production of the mix results.

(5) Absense of excessive fines promotes ease of handling after shipment of the material.

(b) Top Course. It is desirable that the top course have sufficient fines to bring about a thorough seal and to create high density as the surface becomes compacted under traffic. On the other hand, too much fine material must be avoided, for excessive fines leads to difficulty in handling and roughness of the surface may result. The top course should be so graded as to have sufficient fine material to increase durability, but not so much as to create a tough mix which can be handled only with difficulty. It was found in the test sections that certain mixtures gave the best results. To obtain a further seal, it is felt that a mixed top dressing should be used. This is advantageous in bringing about rapid sealing of the wearing surface. Those mixtures which gave the most stable and at the same time most durable wearing surfaces had the following gradations:

Top Course

Sieve Opening	Mix Number			
	1	2	5	8
	Total Per Cent Passing			
3/4 in.	100	100	-	-
1/2 in.	72	77	100	-
3/8 in.	54	61	78	100
#4	10	25	25	25
#16	5	12.5	12.5	12.5
#100	0	1.5	1.5	1.5

Naturally, in connection with the various gradations of materials tried in the several mixes, it was necessary to vary the amount of other ingredients including liquefier, asphatic cement and hydrated lime, and in every case these variations were made to suit the gradation of the aggregate. Unfortunately, it is impossible to discuss these tests in any greater detail at the present time.

Suggested Specification Limits

On the basis of the tests which have been conducted, even though they are not entirely conclusive, it is possible to point the way to proper specification limits and the following specifications have been drawn up, taking into account not only the test results that have been obtained, but also past experiences have been given consideration. The limitations for Amiesite suggested herein include mixes which will have desirable qualities for a wide variety of climatic and traffic conditions.

It will be noted that the suggested requirements provide for a somewhat open or macadam type of base, having sufficient fines, however, to help retain a thick film of asphalt on the surfaces of the stone. Also, the minimum size of the bottom course is the maximum size of the top course and thus economy in production results. The gradation of the top course, however, provides for a relatively denser mixture although not one of high density. Sufficient fines have been provided to partially fill the voids and to hold the thick film of bitumen in place. At the same time excessive fines, especially those passing the No. 20 sieve have been avoided, for a cold mix of a liquefier type is rendered tough and difficult to handle by too many very fine particles. The resulting surface should be free from fat spots, yet it should be dense and have a uniformly rough texture. The mixed top dressing called for will serve to rapidly seal the surface.

In conclusion, it is suggested that the various State Highway Departments study these specification limits to determine the feasibility of incorporating them into their State standards. If this were done, much confusion in production would be eliminated in those plants shipping into several States and it is believed that stable and durable pavements would be produced.

*****

(1) The investigations summarized here have been described in detail in the Proceedings of the Eleventh Annual Convention of the Association of Highway Officials of the North Atlantic States, page 131, in a paper entitled, "Developments in Cold Laid Bituminous Pavements" by A.T. Goldbeck.

Suggested Specification Limits for Amiesite

Gradation of Aggregate

(Including Mineral Filler but Excluding Lime)

Binder		Surface Course		Top Dressing	
Sq.Opening	Total Passing	Sq.Opening	Total Passing	Sq.Opening	Total Passing
	Per cent		Per cent		Per cent
1-1/2" *	100	5/8"	100	#4 or 1/4" **	95-100
1-1/4" *	95-100	1/2"	90-100	#50	0- 40
1"	46- 77	1/4" **	25- 50		
1/2"	2- 17	#4	15- 40		
1/4"**	2- 10	#8	2- 15		
#4	2- 7.5	#20	0.5-4.5		
#8	1- 7.5	#200	0- 2.5		
#20	0.5- 3.0				
#200	0- 1.5				

* Leveling courses or wedge courses may require a reduction in the maximum size above specified.

** Limits are given for both the 1/4 in. sq. and the #4 sieve; however, only one of these need be used.

It is believed that asphalt having a penetration of 80 to 100 would be most suitable for the above gradation.

Proportions of Mixtures - Per Cent

	Binder	Surface	Top Dressing
Total Aggregate	96.2 - 93.5	94.0 - 90.75	98.7 - 93.5
Liquefier	0.3 - 1.0	0.5 - 1.25	0.2 - 2.0
Lime	0.5 - 1.0	0.5 - 1.0	0.1 - 0.5
Bitumen	3.0 - 4.5	5.0 - 7.0	1.0 - 4.0

"WHAT THE FEDERAL GOVERNMENT IS DOING"

Some Observations by the Mineral Aggregates Institute

Conference of Industry and Labor

After the Coordinator for Industrial Cooperation, Major George L. Berry, had completed his address at the opening of the industry-labor round table conference in Washington on December 9 and had adjourned that session, there was a series of disorderly scenes growing out of an attempt by representatives of certain industries to keep the conference in session and the resistance to such a proposal by Major Berry. The industry spokesmen claimed that they were denied an opportunity to answer the challenges contained in the address of Major Berry, and he insisted that they should express their opinions at the round table conferences of industrial groups scheduled to be held at the conclusion of his address. The incident struck a significant note and offered additional evidence of the growing resentment in industrial circles toward a great many recent legislative enactments.

Major Berry was successful in adjourning the general meeting, but the round table discussions of industrial groups which followed were not notably successful from his point of view. The program arranged for the conference provided first that Major Berry should address the whole assembly, following which representatives of directly related industries were to meet together and "discuss their problems among themselves." Labor in each industry was to have its separate meeting, and each group was asked "to reach determinations and to select one of their number to act for the group and express the group point of view" at a council of industrial progress, which apparently Major Berry hoped to make a permanent organization. This council was expected to prepare a program and determine upon a course of action in the solution of the unemployment problem.

The industries represented in the Mineral Aggregates Institute were requested to meet in the non-metallic products unit, other members of which were: cement and cement products (including ready mixed concrete), lime, gypsum, brick, porcelain, structural stone, natural and artificial abrasives, and others. After about two hours' deliberation the group adjourned without appointing a delegate to the proposed Council. Prior to adjournment, the secretary of the meeting was instructed to report to Major Berry that, on account of the wide diversity of interests represented in the group, it was found impossible to obtain unanimity of opinion in regard to the appointment or non-appointment of a delegate and that, therefore, the meeting was adjourned without action. While complete information is not available at this time concerning the actions taken by the other forty-three groups of related industries, it seems evident that most of the important groups adopted the same point of view entertained by the non-metallic products industries.

In a radio address on Monday evening, December 9, Major Berry insisted that if the first conference was unsuccessful, a second conference would be called. He failed to indicate then, or at his opening address at the confer-

ence, just what in his judgment might be done to solve the unemployment problem. However, at each round table conference of related industries, a memorandum containing thirteen suggestions was offered for consideration. It was emphasized that these were not for adoption unless the various groups were in accord. They are as follows:

1. Amendment of the Federal Trade Commission Act granting the Commission more authority to meet fair-trade-practice and working-hour requirements.

2. Enactment of a maximum work-week law.

3. Enactment of the O'Mahoney Bill for licensing and taxation of all corporations in interstate commerce.

4. Modification of the antitrust laws.

5. Establishment of a Federal subsidy for business as a means of increasing employment.

6. Consideration of the effect upon domestic production of the competition of imports from foreign countries.

7. Establishment of a national industrial organization to concern itself with Federal and State business legislation.

8. Consideration of allocating the jobless to all industries on the basis of normal employment.

9. Encouragement of new industries to absorb the unemployed.

10. Establishment of an industrial council under Federal auspices to promote industrial cooperation.

11. Examination of the taxation question and its relationship to unemployment.

12. Consideration of a national program for training labor, with a view to meeting the shortages developing in many skilled employments.

13. Establishment, under the census clause of the Constitution, of a system of unemployment censuses, providing a job inventory to be used by a Federal employment office in placing workers.

No action was taken by the non-metallic products group on these points.

Labor Action

In its group meetings, and in its independent general assembly organized labor professed its support of the efforts of the Coordinator for Industrial Cooperation. Speaking for labor, President William Green of the American Federation of Labor stated that they would insist on enactment of the 30-Hour Work Week Bill and the O'Mahoney Bill for licensing of all corpora-

open. Just what in its judgment might be done to solve the unemployment problem. However, no such round table conference of related industries, a remarkable combination obviously not for collusion unless the various groups were in accord. They ask as follows:

1. Amendment of the Federal Trade Commission Act prescribing the Commission more definitely to Fair-Trade-Practice and Working-Hour requirements.

2. Enactment of a uniform corporation law.

3. Enactment of the O'Mahoney Bill for licensing and regulation of all corporations in interstate commerce.

4. Modification of the national bank laws.

5. Establishment of a federal agency for business as a means of increasing employment.

6. Confirmation of the effort upon domestic production of the restriction of imports from foreign countries.

7. Establishment of a national industrial commission to prevent the pernicious and flagrant competition.

8. Continuation of the projects of the Industries on the basis of normal employment.

9. Reorganization of the industries to secure the maximum.

10. Centralization of the industrial research under federal auspices to promote industrial mechanics.

11. Creation of the taxation machine and its relationship to unemployment.

12. Establishment of a national system for relief, with a view to avoiding the shortages developing in many relief districts.

13. Establishment, under the United States of the Constitution, of a system of unemployment insurance, providing a job insurance to be paid by a federal or corporate office in similar methods.

In addition was taken by the conference the following action:

Labor Relations

In the group meetings, and in the industrial council meetings, considerable time was devoted to the efforts of the Secretariat for labor and to the procedures in respect of the activities of the Secretariat for labor relations. Practically the entire group of the labor relations of the industries, and the labor unions would unite on certain of the questions and the necessity with the discussion of the questions

tions in interstate commerce. It may be expected that a sustained drive for passage of these bills will be made at the forthcoming session of Congress. It was thought at first that this would be a short session in deference to the forthcoming national elections, but it seems evident now that the sessions will be prolonged and that they will be marked by an unusual bitterness in which party lines will collapse. Labor is also actively behind the Walsh Bill for restoring code wage and hour provisions on governmental contracts, and it will at least give tacit support to the program of organized agriculture. Every branch of American industry will be affected and influenced by the work of the next Congress, and to that end a clear understanding of all legislative proposals is indispensable for the preservation of our existing economic system.

Congress of American Industry

Under the sponsorship of the National Association of Manufacturers, the Congress of American Industry was held in New York on December 4 and 5, at which Institute officials were in attendance. It was undoubtedly the greatest mobilization of American industry opinion which has ever yet been witnessed. It is difficult to select the most important developments of the Congress, but in our judgment its policy and its point of view are very aptly expressed in the report of the Congress on Government Relation to industry, the full text of which appears as Appendix I to this report. Its careful and studious reading is earnestly urged.

There is no mistaking the fact that organized American industry is militantly aroused against many bills enacted at the last session of Congress and many bills proposed for consideration at the coming session. There will be a determined opposition to any renewal of the National Recovery Act which would provide for mandatory codes under governmental supervision. There is furthermore an insistence that the government retire from fields of business activity, that it balance its budget, that taxes be levied only for the collection of income and not for the accomplishment of social objectives, and that the government be operated with a religious adherence to those Constitutional provisions which require a clear separation between the legislative and executive departments. The battle lines are being drawn for a dramatic contest next year, but American industry may be expected to express its point of view without fear of reprisal and with a deep-rooted belief that the natural flow of economic forces, if permitted to operate, will stimulate and strengthen the undeniable improvement in business conditions experienced during 1934.

Voluntary Cooperation in the Aggregates Industries

One of the important purposes of the program of the Mineral Aggregates Institute in St. Louis on January 29 is to afford a forum for exchange of opinion and information concerning voluntary agreements within the aggregates industries, particularly as to those which have already been launched for application in a limited area. Preliminary to that discussion a letter has been addressed by Chairman Graves of the Institute to the former chairmen of Regional Committees, with copies to former members of the Code Authority, in which request is made for advice concerning such voluntary agreements as are now in operation within our industries. The full text of this letter follows.

"You may have observed references in the press to communications addressed by the President to the Chairman of the Senate Finance Committee and to the Chairman of the House Ways and Means Committee, in which he indicated that he desired to have these two committees study data developed by the National Recovery Administration with reference to the effects of Code invalidation in all lines of industrial effort. In his letters the President committed himself to the policy of sponsoring legislation which would avoid the constitutional defects found in the original Recovery Act by the Supreme Court and which would, at the same time, accelerate industrial recovery by elimination of unemployment and by encouraging the maintenance of fair business and labor standards. Subsequently the President stated in a press conference that he would not press for industrial regulatory legislation at the next session of Congress if industry displayed its capacity for relieving Government of the burden of providing relief for those who are involuntarily unemployed.

"In the meantime, the President is displaying an active interest in the encouragement of industry to submit voluntary codes to the Federal Trade Commission and the National Recovery Administration under the National Recovery Act as amended. Briefly, such codes may provide for wage and hour agreements, for the elimination of competitive practices held to be illegal because of statutory or judicial law, and for the prohibition of business practices which, while not necessarily illegal, are nevertheless effective in preventing the establishment of fair business standards. Such codes, when signed by the President, are applicable only to those companies in the industry which voluntarily sign the agreement. Government will not assist in the administration of the codes, and violation thereof by one signatory to the code does not expose him to prosecution in the courts, except as to those practices which have already been held to be in violation of the antitrust laws.

"There are some phases of voluntary agreements which are appealing. They do seem to offer the assurance of industrial self-regulation, and industry would not be exposed to some of the unfortunate experiences which it suffered at the hands of the National Recovery Administration. However, it might become difficult in such widely dispersed industries as ours to secure enough signatures to a voluntary national code to make it workable and practicable. No sentiment has thus far developed in our industries for utilizing the Recovery Act in its present form, but rather the trend has seemed to be in the direction of working out voluntary agreements which have a limited application as to area and which are not to be submitted to the Federal or State Governments. As you are probably aware, Mr. George L. Berry, Coordinator for Industrial Cooperation, at the request of the President, will hold one or more conferences with industrialists, seeking to determine what program might be adopted for self-regulation of industry which will eliminate unfair labor and business standards; and to what extent, if any, governmental assistance through Federal legislation might be required. I have been invited to attend these conferences and will do so on behalf of the Mineral Aggregates Institute, in order that our industries may be directly informed as to all developments. For this same reason, I propose to attend the forthcoming annual convention of the National Manufacturers Association, at which time there will be one session wholly devoted to a pooling of industry opinion concerning self-regulation of industry and regulatory legislation.

"You may have observed reference in the press to mobilization advanced by the President in the Congress of the Joint Planning Committee and to the Chairman of the Joint Chiefs of Staff. In which he indicated that he desired to have these two committees study data developed by the National Recovery Administration with reference to the effect of the mobilization in all lines of industrial effort. In his memory the President commented himself to the policy of appointing legislation which would avoid the concentration of industry in the original recovery act by the Congress and which found, at the same time, accelerate industrial recovery by elimination of unemployment and by preventing the monopolization of fair business practices. Subsequently the President stated in a press conference that he would not press for industrial regulatory legislation at the next session of Congress. If industry displayed its capacity for voluntary cooperation of the burden of providing relief for those who are involuntarily unemployed.

"In the meantime, the President is disposed to enlist interest in the encouragement of industry to submit voluntary codes to the Federal Trade Commission and the National Recovery Administration under the National Recovery Act as amended. Briefly, such codes may provide for wage and hour agreements, for the elimination of competitive practices declared to be illegal because of statutory or judicial law, and for the prohibition of business practices which, while not necessarily illegal, are nevertheless of vicious in character. Such codes, when signed by the President, are applicable only to those engaged in the industry which participates in the agreement. Agreement will not excuse in the administration of the codes, and violators cannot by the mandatory to the code does not express its provision to the courts, except as to those practices which have already been held to be in violation of the antitrust laws.

"There are some phases of voluntary agreements which are appealing. They do seem to offer the assurance of industrial self-regulation, and therefore they would not be opposed to some of the reforms obtainable with le suffered at the hands of the Federal Recovery Administration. However, it would require efficient and wholly disinterested leadership be done to assure success. Experience is a warning medicine which to make it workable and practicable to continent are those found in our Industrial for utilizing the services of men who are prepared to give their time, more to the cause than to the reward. Let there the trend has moved to be in the direction of working out voluntary agreements to be submitted to the Federal Recovery Administration. Of the cases which are presently before the Administration, we are probably closer to a decision in the case of the Cotton Textile Industry. Hugh S. Johnson, Deputy Administrator for that industry, has been in conference with the President, George L. Berry, Coordinator for Industrial Cooperation, and other officials of the Administration. Another industry which is expected to be submitted for negotiation of industry code is the automobile industry. If any, governmental agencies are to be created to administer the codes, and to what extent, if any, governmental sanctions through Federal legislation might be required. I have been in consultation with Mr. Richberg and will do so on behalf of the Liberal Advisory Committee. In order that our Democracy may be directly informed on all developments. For this same reason, I propose to extend the forthcoming series of broadcasts to include discussion of labor, at which time the general cooperation of the National Industrial Recovery Act, as well as the comparable work of the Agricultural Adjustment Administration, may be considered with a view to the question of industry organization of industry and industry legislation.

-oOo-

"In addition to such information as may be thus obtained, the Institute desires to ascertain to what extent our industries have entered into local trade agreements. I hope you will give me a complete report concerning any organized effort in our industry with which you are familiar, whose purpose is to consolidate such gains as were achieved under the Code. The information thus developed will be analyzed and incorporated in a report which we shall be glad to make available to you and which will be presented on the program set aside for the Mineral Aggregates Institute during the forthcoming annual conventions of the three member associations in St. Louis during the week of January 27. The data which we are endeavoring to develop will also be helpful to the Institute in shaping the policies of our industries towards such legislation as may be presented in the next Congress for renewal of the principles of the Recovery Act within constitutional limitations.

"Will you be kind enough, in writing me, to advise specifically as to the nature and details of any trade agreements in your regions. We should also like to have copies of such constitutions and by laws as local groups may have agreed upon; in short, we should like to have comprehensive data so that we may be enabled to fully report to the industries assembled in convention at St. Louis. Your cooperation in this regard will be greatly appreciated.

"Sincerely yours,

(signed) Otho M. Graves

Chairman"

Legislative Proposals Affecting Industry

While there are several bills now pending before the Congress which, if enacted, would exercise an influence upon the aggregate industries, the Mineral Aggregates Institute has selected three bills as being of the most immediate importance to the crushed stone, sand and gravel, and slag industries. These are the Walsh Bill, the Shannon-Clark Bill, and the 30-Hour Bill. In order to develop the sentiment of the industries toward these three bills as a basis for testimony before the appropriate committees of the House and the Senate, a letter has been addressed by Chairman Graves to former chairmen of Regional Committees, with copy to former members of the Code Authority, in which the three bills in question have been explained and their effect upon our industries pointed out. Those to whom the letter was addressed were asked to give the Institute the benefit of their judgment as to the attitude which the Institute should take toward the legislation. The full text of this letter follows:

"One of the functions vested in the Mineral Aggregates Institute by the member Associations is the duty of concerning itself with Federal legislation already adopted by the Congress and that which is now pending before that body. Included among the latter classification are three bills which engaged the attention of the Board of Governors of the Institute at its last meeting

"In addition to such information as may be thus obtained, the Institute desires to ascertain to what extent our industries have entered into local trade agreements. I hope you will give me a complete report concerning any organized effort in our industry with which you are familiar, whose purpose is to consolidate such gains as were achieved under the Code. The information thus developed will be analyzed and incorporated in a report which we shall be glad to make available to you and which will be presented on the program set aside for the Miami Agreements Institute during the forthcoming annual conventions of the Three Member Associations in St. Louis during the week of January 27th. The date which we are endeavoring to avoid will also be helpful to the Institute in shaping the policies of our industries toward the maximum co-operation in the months to come. Copies of the principles of the Recovery Act which concern Institutional Limitations,

"With you be kind enough, in reply to advise exactly as to the return and cordial of any trade agreements in your regions, we should like to have copies of such constitutions and by laws as local groups may have agreed upon in short. We should like to have comprehensive data so that we may be enabled to fully report to the Industries assembled in convention at St. Louis. Your co-operation in this regard will be greatly appreciated.

"Sincerely yours,

(signed) Otto M. Greene

Chairman"

Legislative Proposals Affecting Industry

While there are several bills now pending before the Congress which, if enacted, would exercise an influence upon the agreements Industries, the Miami Agreements Institute has selected three bills as being of the most immediate importance to the ornamental stone, sand and gravel, and clay industries. These are the Wheat Bill, the Common-Cloth Bill, and the 30-Hour Bill. In order to develop the sentiment of the industries toward these three bills as a basis for testimony before the appropriate committees of the House and the Senate, a letter has been addressed by Chairman Greene to Forrest Chairmen of Regional Committees, with copy to Trade Members of the Code Authority, in which the three bills in question have been explained and their effect upon our industries pointed out. Those to whom the letter was addressed were asked to give the Institute the benefit of their judgment as to the attitude which the Institutes should take toward the legislation. The full text of this letter follows:

"One of the functions vested in the Miami Agreements Institute by the member associations is the duty of considering their General Legislation already adopted by the Congress and that which is now pending before that body. Included among the latter classification are three bills which engaged the attention of the Board of Governors of the Institute at its last meeting

in Washington, these being the Walsh Bill, the Shannon-Clark Bill, and the so-called 30-Hour Work Week Bill. Below I present a brief outline of these important legislative proposals.

"Walsh Bill: This bill which has already passed the Senate and which is now in the hands of the House Judiciary Committee for report at the forthcoming session, would restore, 30 days after the act was signed by the President, the wage and hour provisions of all Codes of Fair Competition in the direct or indirect purchasing of materials, commodities and services by the Federal Government. Furthermore, the President is authorized to prescribe more stringent wage and hour provisions on specific contracts. If a member of our industries desired to establish his eligibility to bid on Federal purchases, or in the construction of projects involving Federal funds in whole or in part, he would have to certify that he had restored within his operations, 30 days after the Walsh Bill was signed by the President, the wage and hour provisions of Code 109. In bidding on a given project, he would have to agree that he would submit to specific wage and hour regulations approved by the President. The question now before the Institute is: Should we seek an opportunity to testify before the House Judiciary Committee either in approval of or in opposition to the Walsh Bill? Is it sound legislation? Will it have a constructive effect in our industries, or will it tend toward disruption of normal economic forces? Is it practical of administration, and would it have the effect of producing fair competition within our industries?

"Shannon-Clark Bill: This bill was jointly sponsored by Congressman Shannon of Missouri and Senator Clark of Missouri. It requires the establishment of a cost accounting system for Federal Government agencies under the direction of the Comptroller-General. It would compel the Government to abandon methods of competition condemned alike by its administrative agencies and the courts. According to the National Association of Manufacturers, the bill provides the only practical means yet suggested for determining comparable Government and private costs of operation through universally accepted standards of accounting. The bill is in the Committee on Commerce of the Senate and in the Committee on Expenditures in the Executive Departments of the House of Representatives. Here again the Institute would like to have the benefit of your judgment. Would enactment of the Shannon-Clark Bill be helpful in stemming the tide toward Governmental intrusion into our industries and into other phases of industrial activity? Has the public been misled by inaccurate and incomplete cost statements issued by departments of the Federal Government, purporting to show that Government in industry means lower prices to the consumer and higher wages to the worker? Would enactment of the bill have a salutary effect on State, county, and city government, which are the principal offenders in respect to production by Government of our own materials?

"30-Hour Bill: The original bill limiting hours of employment to 30 hours per week was introduced more than two years ago. It was jointly sponsored by Senator Black of Alabama and Congressman Connery of Massachusetts. It passed the Senate but was sidetracked in the House of Representatives in deference to the National Industrial Recovery Act. Mr. Connery in particular has always deplored this substitution for his measure. He believes he has overcome the fundamental objection to his first bill - that it would distri-

bute poverty rather than useful employment - by providing in his new measure that a Bureau would be established in the Department of Labor, charged not only with the duty of restraining the shipment in interstate commerce of commodities produced by any plant or mine or quarry which worked its men more than 30 hours per week, but would also have the task of stipulating wages which would 'insure a decent standard of living' in the light of the drastically reduced work-week. Press dispatches indicate that the American Federation of Labor, at its convention in Atlantic City, proclaimed that its first and most important objective would be to secure the passage of the Connery Bill. In the main, our materials move in intrastate commerce, but there is a substantial percentage of our annual production which flows across state lines, and setting aside constitutional questions for the moment, we must recognize that the Connery measure will pass in its present form and have a direct effect on all industry regulatory legislation if the appropriate committees of the Congress are not given intelligent advice concerning the effects of the measure. The Institute would like to know, therefore, what in your judgment would be the effect of the Connery Bill on our industries in your locality if it becomes law. To what extent, in your opinion, would it tend to aggravate competition now experienced from Governmental agencies in our industries? Is there a sufficient supply of skilled labor in your area which, all other objections waived, could be secured to operate our plants? To what extent should the bill allow for its application to seasonal industries like ours?

"You recall that during the time of Code administration, we depended mainly upon Chairmen of Regional Committees for ascertaining the sentiment in our industries in their respective regions on all questions of Code administration and application. Such procedure gave the Code Authority a ready access to helpful and constructive advice in the discharge of its various responsibilities, and the Institute is taking the liberty of enlisting your further cooperation in the determination of its policies with reference to the three bills described above. These bills are of vital concern to our business, and we conceive that it is our duty to appear before the committees of Congress and to give them the benefit of the attitude of our industries toward any legislative proposal which may affect us directly or indirectly. The three bills cited above do not embrace all of the legislation to which the Institute is giving study, and from time to time you will hear from us on other legislative proposals.

"We shall be indebted to you for your advice as to the opinion within your region on the probable effect of the three bills upon our industries. Since Congress will resume its sessions in January, it will be helpful if you will write us as promptly as possible since we desire to complete our survey in sufficient time for the preparation of our testimony. Please address your reply to me at the Drake Building, Easton, Pa., sending copy of your letter to Mr. V. P. Ahearn, 951 Munsey Building, Washington, D. C.

"Copy of this letter is being sent to former members of the Code Authority. Their cooperation in developing the sentiment of our industries toward the three bills in question is earnestly requested.

"In order to facilitate expression of opinion, a questionnaire is attached which may be used in answering this letter. If the questionnaire form is inadequate for statement of the position of our industries in your region, a supplementary letter will be appreciated.

Sincerely yours,

(signed) Otho M. Graves

Chairman"

****

APPENDIX I

GOVERNMENT RELATION TO INDUSTRY

THE FOLLOWING REPORT DEALING WITH GOVERNMENT RELATION TO INDUSTRY WAS UNANIMOUSLY APPROVED BY THE CONGRESS OF AMERICAN INDUSTRY DECEMBER 5, 1935.

The great consumer and buyer of raw material is the manufacturer. The functions of the manufacturing industry are to buy raw materials and by various mechanical processes to transform them into goods for use or consumption. Raw materials, with few exceptions, are utterly valueless except as they are so prepared for use.

These raw materials must be processed and combined by the use of labor and machinery into useful and desirable articles. This processing requires a great amount of skilled and semi-skilled labor, besides offering also the opportunity for the employment of large amounts of capital.

The standard of living of the nation is very largely measured by the physical amount of manufactured products which is annually distributed to the people, whether for immediate consumption or for continuous enjoyment or for use in further production. There is no practical limit to the standard of living because there is no limit to the need for useful things.

If the cost of production is increased through artificial devices which diminish output in relation to real wages, then the available volume of goods is reduced in relation to buying power. This can mean only -

1. Higher sales prices
2. Reduced consumption
3. Curtailment of production and employment
4. Diminished opportunity for profitable use of capital
5. Reduced buying of raw material and less employment in the industries producing it.

THIS CYCLE MEANS DEPRESSION.

Conversely, if the cost of production is decreased, through improved methods and machinery, so as to increase output in relation to real wages, then the available volume of goods is increased in relation to buying power. This can mean only -

1. Lower sales prices
2. Increased consumption
3. Increase of production and employment
4. Enlarged opportunity for profitable use of capital
5. Increased buying of raw material and more employment in the industries producing it.

THIS CYCLE MEANS PROSPERITY.

The progressive effect of unrestricted production in lowering costs and prices and thus in increasing consumption and production and the certainty that this will result in increased employment and greater use of raw materials is so simple and clear that it should have been obvious to those who are directing the destinies of the nation. Instead, however, in many cases they have chosen the opposite course of restricted production resulting in increased costs and diminished demand, all of which have perpetuated the evils of unemployment.

These restrictive policies, together with the creation of an unstable financial outlook growing out of a rising national debt and an unbalanced budget, have given rise to three grave fears:

1. The fear of inflation and all of its attendant evils.
2. The fear of new hostile legislation evidenced by the bills now awaiting the next Congress.
3. The fear of a change in our form of Government already envisioned by spokesmen of the Administration.

The grave outlook engendered by these fears has made people hesitate to invest in new enterprises; has caused manufacturers to be reluctant to expand their plants and productive facilities; and has made people desiring homes of their own shrink from spending savings or pledging future earnings to build them, except as a refuge against inflation.

The fear of continued and increased inflation that may lead the nation through a period of false prosperity to an inevitable crash later, is real and ominous. Permanent recovery cannot proceed while this and the other fears exist. The paramount duty of the government is to dispel them, both by word and deed. This it can do by promptly reducing expenditures and bringing the budget into balance; by advocating the repeal of much restrictive legislation already enacted; by refusing to countenance further proposals to restrict the free play of competitive processes; by abandoning attempts by the administrative branch to exercise legislative functions and powers; and by ceasing to circumvent and evade the Constitution by indirection.

When these fears are removed and confidence has been reestablished there will follow those progressive developments which mean greater production,

lower unit costs, lower prices to the consumer, more widespread consumption of products, and increased employment, -- in short, prosperity.

REPORT OF COMMITTEE ON RELATION OF GOVERNMENT TO INDUSTRY

Introductory

Your Committee, in preparing the report here submitted, has been fully conscious of its responsibility of ascertaining, evaluating, and accurately reflecting the considered opinion of industry as to the proper relationship between government and industry. Fortunately, our problem is no longer complicated by the necessity of constantly differentiating between temporary emergency measures and proposals for permanent legislation. All recognize the fact that world-wide business recovery began in 1932 and is still continuing. Our problem is to remove the obstacles which in America have prevented the measure of recovery already achieved in many other countries of the world.

WE MAY NOW APPRAISE OUR SITUATION AND TAKE COUNSEL FOR THE FUTURE UPON THE BASIS OF SOUND PRINCIPLE WITHOUT THE NECESSITY OF COMPROMISING OR ADOPTING EXPEDIENTS UNDER THE STRESS OF EMERGENCY CONDITIONS.

A characteristic of depression which persists today is the continuance of enormous government spending, accompanied by a continuing deficit in the Federal budget. While large expenditures for the relief of those unemployed through no fault on their own part may be justified, nevertheless there is a growing conviction that such expenditures have been on an unnecessarily huge scale, and that the depression has been in large measure an excuse, rather than a reason, for much of the expenditure. Federal spending has been as much the result of an unsound philosophy of government as a necessity of circumstance.

Emergency Basis Continues

The American people are faced today with a series of proposals for new and permanent legislation, much of which is still urged under the plea of economic emergency. Thus we consider what is proposed, not merely from the patriotic viewpoint of common cooperation to meet a temporary situation, but as an effort to place in our system a series of permanent statutes, projecting the New Deal into the future of America. We may well pause and consider the implications of such a program.

We are passing through a critical period in our history. It is a critical period, but not a novel one. It is not the first depression America has faced, and if the lessons of history mean anything it may not be the last. Its seriousness we do not discount but we would be recreant to our trust if we ignored the fact that it had many of the characteristics of all past depressions in all countries. Not the least noticeable of these characteristics have been those accompanying every depression since the beginning of the industrial age. First in importance is the evident disposition to lay all the incidents of the depression to a faulty economic system. This has been accompanied by

lower unit costs, lower prices to the consumer, more widespread consumption of products, and increased employment, -- in short, prosperity.

REPORT OF COMMITTEE ON RELATION OF
GOVERNMENT TO INDUSTRY

Introductory

Your Committee, in preparing the report here submitted, has been fully conscious of its responsibility of ascertaining, evaluating, and accurately reflecting the considered opinion of industry as to the proper relationship between government and industry. Fortunately, our problem is no longer complicated by the necessity of constantly differentiating between temporary emergency measures and proposals for permanent legislation. All recognize the fact that world-wide business recovery began in 1932 and is still continuing. Our problem is to remove the obstacles which in America have prevented the measure of recovery already achieved in many other countries of the world.

WE MAY NOW APPRAISE OUR SITUATION AND TAKE COUNSEL FOR THE FUTURE UPON THE BASIS OF SOUND PRINCIPLE WITHOUT THE NECESSITY OF COMPROMISING OR ADOPTING EXPEDIENTS UNDER THE STRESS OF EMERGENCY CONDITIONS.

A characteristic of depression which persists today is the continuance of enormous government spending, accompanied by a continuing deficit in the Federal budget. While large expenditures for the relief of those unemployed through no fault on their own part may be justified, nevertheless there is a growing conviction that such expenditures have been on an unnecessarily huge scale, and that the depression has been in large measure an excuse, rather than a reason, for much of the expenditure. Federal spending has been as much the result of an unsound philosophy of government as a necessity of circumstance.

Emergency Basis Continues

The American people are faced today with a series of proposals for new and permanent legislation, much of which is still urged under the plea of economic emergency. Thus we consider that is proposed, not merely from the pet-ristic viewpoint of common cooperation in meet a temporary situation, but as an effort to place in our system a series of permanent statutes, projecting the New Deal into the future of America. We may well pause and consider the implications of such a program.

We are passing through a critical period in our history. It is a critical period, but not a novel one. It is not the first depression America has faced, and if the lessons of history mean anything it may not be the last. Its seriousness we do not discount but we would be reproach to our trust if we ignored the fact that it had many of the characteristics of all past depressions in all countries. Not the least noticeable of these characteristics have been those accompanying every depression since the beginning of the industrial age. First in importance is the evident disposition to lay all the incidents of the depression to a faulty economic system. This has been accompanied by

impatience with the democratic form of government, and a desire to substitute direct personal government invested with broad discretion to do whatever seems required to end the depression.

These have been the roots; their branches have been many. The so-called-share-the-wealth movements and a hundred other lesser manifestations have sprung from them. In most instances, these movements have gathered adherents because the remedy proposed seemed simple and direct. Thus, great organizations of labor, the members of which would themselves be injured if their objectives were conceded, have joined in efforts to compel the spreading of available work by compulsory shortening of the work week by Federal legislation.

Two and one-half years ago the industries of the country were called upon to join in a cooperative endeavor under the statute known as the National Industrial Recovery Act. The President of the United States himself stated to the country that industry as a whole was conducted in a manner beyond reproach and that such legislation was necessary only because of a small fringe of competitors, less than 10 per cent in number, who refused to recognize or adhere to the rules of the competitive game. The Administrator of the National Recovery Administration has stated not once, but many times, that American industry responded wholeheartedly to the call for cooperation.

A condition of cooperation, however, cannot exist save where the will to cooperate is present on both sides. We are driven to the conclusion that the Administration desired cooperation from industry but did not genuinely wish to give to industry the same degree of cooperation that it exacted. The often declared theory of the Administration that codification was to be a voluntary process, was perverted in practice. Many industries were asked and even forced to accept the burdens of the code system without any commensurate benefits. The Administration likewise secured adoption of many codes in forms entirely unsatisfactory to the industries involved by threatening to invoke the licensing provisions of the Act or the provisions for imposed codes.

Nor was the atmosphere one in which complete cooperation was possible. The Administration, while urging industry to cooperate under the National Industrial Recovery Act, was at the same time constantly originating and demanding passage of numerous additional regulatory measures, such as the Wagner Labor Relations Act, the Guffey Coal Act, the processing tax provisions of the Agricultural Adjustment Act, the so-called Social Security Act involving huge payroll taxes, and the share-the-wealth tax bill, all of which contributed to the burdens and the uncertainties of doing business in such a way that even the theoretical benefits of the code system, if translated into actualities, would have been slight compensation to the affected industries.

No good purpose would be served by tracing the various steps involved in administration of the Recovery Act. In the opinion of your Committee, the Act was based upon fallacies too serious to result in anything but disillusionment. The idea that compulsory shortening of hours, and compulsory raising of wage rates, by Federal action, can result in a public benefit, is disposed of by experience under the codes. THE FALLACY LIES IN ASSUMING THAT BECAUSE THERE ARE CERTAIN NATURAL RESULTS OF PROSPERITY, WE CAN ACHIEVE PROSPERITY BY LEGISLATING THESE RESULTS; EFFECT IS MISTAKEN FOR CAUSE.

The Schecter Decision

The Supreme Court was unanimous in holding that the code-making provisions of the Recovery Act were unconstitutional, not only because of the extreme and unwarranted delegation of legislative power, but because of the effort, through the codes, to extend centralized Federal control to local conditions which are properly held to be subject only to state and local regulation. We are now faced with the proposal that in some form the Recovery Act should be continued as permanent legislation.

Industry is opposed to legislation of this character, believing that better progress will be made by further adjudication of the existing anti-trust laws. Such adjudication is progressively defining the permissible field of cooperative action within industry itself. American industry is anxious to improve competitive conditions, but believes that this can only be done by a natural evolutionary process.

Pending Proposals for Legislation

The decision of the court in the Schechter Case was received by the Administration with bitterness and epithet. Instead of accepting a situation which brought relief to American industry and at the same time obviated growing political embarrassment for the Administration, the President threw his support behind a series of efforts to do by indirection and special statute what the court had clearly indicated could not be done by direction under a mandatory statute of general application. This attitude and the efforts which made it manifest, resulted in passage of several of the statutes above mentioned and the suggestion of still further measures, some of which are now pending and will be before the next session of Congress convening in January. Chief among the pending measures are the O'Mahoney licensing bill, (S.3363), the Ellenbogen Bill to set up a little NRA for textiles, (H.R.9072), the Walsh Government Contract Bill (S.3055), and the Black-Connery measures for legislation fixing the basic maximum work week at thirty hours.

Under the O'Mahoney Bill a system of licensing of industry would be made effective and it would be unlawful to engage in commerce without first obtaining a license from the Federal Trade Commission. Interstate commerce would be defined to include manufacture, production, and local distribution, as well as what the courts have traditionally held to constitute interstate commerce. Each license would contain conditions, which, in essence, would extend Federal control over wages, hours, and working conditions. A complete system of regulation of the internal affairs of corporations engaged in commerce would be an important feature of the measure. Licenses could be revoked by the Commission for violation of any of their terms, or in the event of any labor dispute in which the employer was held by the Commission to be at fault, and during which it became necessary for him to call for protection by the police, militia, or any other armed force of government. In addition to the exercise of the commerce power, the bill invokes the power of the government to make contracts, loans, or grants, and brings under the licensing provisions every person contracting with the government or receiving any loan or grant from it. Violation of any of the provisions of the Act would be penalized by fine, imprisonment, and perpetual injunction against engaging in interstate commerce.

The Director Decision

The Supreme Court was unanimous in holding that the code-making provisions of the Recovery Act were unconstitutional, not only because of the extreme and unwarranted delegation of legislative power, but because of the effort, through the codes, to extend centralized Federal control to local enterprises which are properly held to be subject only to state and local regulation. We are now faced with the proposal that in some form the Recovery Act should be continued as permanent legislation.

Industry is opposed to legislation of this character, believing that better progress will be made by further education of the existing anti-trust laws. Such education is progressively defining the permissible field of cooperative action within industry itself. American industry is seeking to improve competitive conditions, but believes that this can only be done by a natural evolutionary process.

Pending Proposals for Legislation

The decision of the court in the Schechter Case was received by the Administration with bitterness and protest. Instead of accepting a situation which brought relief to American industry and at the same time obviated crippling political embarrassment for the Administration, the President threw his support behind a series of efforts to do by indirection and special statute what the court had clearly implicated could not be done by direction under a constitutional statute. This attitude and the efforts which made it manifest, resulted in passage of several of the statutes above mentioned and the suggestion of still further measures, some of which are now pending and will be before the next session of Congress convening in January. Chief among the pending measures are the Thomas-Lamneck Bill, (S.3253), the Ellenbogen Bill to set up a Little NRA for textiles, (H.R.6072), the Walsh Government Contract Bill (S.3055), and the Black-Connery measure for instituting the basic maximum work week at thirty hours.

Under the Connery Bill a system of licensing of industry would be made effective and it would be unlawful to engage in commerce without first obtaining a license from the federal trade commission. Interstate commerce would be defined to include manufacture, production, and local distribution, as well as what the courts have traditionally held to constitute interstate commerce. Such license would carry conditions, which, it appears, would extend federal control over wages, hours, and working conditions. A complete system of regulation of the internal affairs of corporations engaged in commerce would be an inevitable feature of the measure. Licenses could be revoked by the Commission for violation of any of their terms, or in the event of any labor dispute in which the employer was held by the Commission to be at fault, and during which it became necessary for him to call for protection by the police, militia, or other armed force of government. In addition to the control of the commerce power, the bill invokes the power of the government to make contracts, taxes, or grants, and brings under the licensing provisions every person engaged in contracting with the government or receiving any loan or grant from it. Violation of any of the provisions of the Act would be remedied by fine, imprisonment, and perpetual injunction against engaging in interstate commerce.

The Textile Control Bill proposes, through a system of licenses, to control wages, hours, and working conditions; volume of production; hours of plant or machine operation; and trade practices. Every license issued would also require compliance with the substance of the Wagner Labor Relations Act and would require payment of a dismissal wage, compulsory accident insurance, and regulation of work assignments. Licenses could be revoked by the Commission for cause. The facilities of interstate commerce and of the mails would be denied to persons not operating under licenses and persons guilty of violating the Act or the terms of any license. Such persons also would be ineligible for government contracts, loans or grants, Any products purchased, sold, shipped or delivered in violation of the Act would be subject to seizure and any person violating the Act would be subject to a fine of $100,000 or imprisonment for one year.

The Walsh Government Contract Bill, S. 3055, would require in substance that every person obtaining a government contract, loan or grant, should submit to federal control with reference to wages and hours, and that all direct contractors, borrowers or grantees should be compelled to require compliance on the part of their subcontractors, material men and suppliers.

The Black-Connery Bills, S.67 and H. R. 7198, prescribing a basic thirty-hour week for labor represent a now familiar proposal. Indeed, the threat of such legislation has, during the past two and one-half years, been used intermittently with great success by organized labor and the Administration for the purpose of forcing industry to accept harmful compromises which were wrong in principle and which have proven but little less disastrous than would the thirty-hour legislation itself.

YOUR COMMITTEE HAS GIVEN CAREFUL CONSIDERATION TO THE ABOVE MEASURES, AND HAS EXAMINED THE ARGUMENTS MADE IN THEIR BEHALF BY THEIR FRIENDS AND SPONSORS. IT HAS COME TO THE CONCLUSION THAT ALL ARE BASED UPON FALLACIOUS ASSUMPTIONS, EITHER ECONOMIC, POLITICAL, OR BOTH, AND THAT INDUSTRY SHOULD PRESENT A UNITED FRONT AGAINST THEM.

The proposal to reenact the National Industrial Recovery Act, and the proposal for a compulsory shortening of the work-week by Federal legislation, are in essence the same. In each case the object is to compel the spreading of available work by shortening working periods, by maintaining or increasing wage rates, and by compelling so-called collective bargaining between management and labor.

Fortunately, the period of discussion which has been available has provided the opportunity for intensive and enlightening studies as to the economic effects of such proposals. Perhaps the most noteworthy contribution has come from the Brookings Institution. In its recent volume, "Income and Economic Progress," the Brookings Institution has examined and discarded the theory that the compulsory shortening of the work week by legislation is in any sense a cure for our economic troubles, and has concluded, on the contrary, that the only effect of such legislation would be to decrease our national production, the income flowing therefrom, and ultimately to lower the standard of living of the American people.

IT IS THE CONCLUSION OF YOUR COMMITTEE THAT FEDERAL CONTROL OF HOURS OF LABOR MUST INEVITABLY LEAD TO THE ARBITRARY, COMPULSORY, AND PROGRESSIVE SHORTENING OF THE WORK WEEK, COUPLED WITH AN ENDEAVOR TO PRESERVE THE WEEKLY INCOME OF THE WAGE-EARNER. THIS WOULD GENERALLY FORCE UP PRICES AND WAGE RATES BUT NOT ACTUAL EARNINGS, AND THE ACCOMPANYING ENDEAVOR TO PREVENT A REDUCTION IN REAL WAGES, IN THE LONG RUN, WOULD BE IMPOSSIBLE OF ATTAINMENT AND HARMFUL TO ALL CONCERNED. MOREOVER, THE DIFFICULTY OF MEETING THE VARYING CONDITIONS EXISTING BETWEEN DIFFERENT INDUSTRIES AND EVEN BETWEEN DIFFERENT UNITS OF THE SAME INDUSTRY WOULD BE WELL NIGH INSURMOUNTABLE. WE THEREFORE RECOMMEND THAT THE ASSOCIATION SHOULD OPPOSE ANY PROPOSALS FOR FEDERAL LEGISLATION TO TAKE GENERAL CONTROL OF WAGES AND HOURS OF LABOR.

We are opposed to the establishment of agencies such as the National Labor Relations Board, and we recommend a continuing campaign for repeal of the Wagner Labor Relations Act under which that agency was created. It is of course obvious that as a result of the Schechter decision, which was merely a statement of the rule theretofore followed by the courts for a century and a half, the Federal Government may not constitutionally extend its control of employment relations to employers and employees engaged in production, manufacture and local trade or commerce. Aside, however, from the legal objections to such a course, we believe common sense and justice dictate the elimination of the federal labor board system. We reiterate a few sentences from the 1934 Platform of American Industry:

> "The establishment of politically appointed national labor boards has not proven to be a satisfactory means of dealing with labor relations and difficulties. *** The mere existence of a permanent labor board inspires complaints and strikes, widens and intensifies controversies, and retards their settlement. All of this is harmful to the interests of the public, which is both the innocent bystander and chief sufferer in most strikes. ***
>
> "The powers of government cannot properly be used to favor one type of labor organization over another, coerce men into joining labor unions, or force them to accept majority domination. The Federal Government should confine itself to its constitutional duty to keep open the channels of interstate amd international commerce."

The Textile Control Bill follows the general lines of the Guffey Coal Act. The principles involved in the National Industrial Recovery Act are unsound. It is obvious that the harm to be done our economic structure from such limited legislation is only less because of its restricted scope. The difference is one of degree, not of kind. The presence of one or more industries so regulated can only serve to make more pronounced, maladjustments between industries, and to render more difficult the problem of natural adjustment and balance, so necessary to the functioning of our competitive system.

Government by Indirection

The Walsh Government Contract Bill and the O'Mahoney licensing bill, represent efforts to do by indirection what cannot be done by direction, as

clearly pointed out by the Supreme Court. There are, of course, many ways in which the Federal Government can attempt to extend its control by indirection. Some of these methods may be beyond judicial attack. None should escape our condemnation. Thus the government, by entering into open competition with its citizens, may produce a competitive situation so intolerable as to drive private industry out of the field or force it to operate under conditions agreeable to the government. Again, the taxing power may be misused so as to produce inequalities in taxation, favoring those who will accept federal controls agreeable to the party in power, and penalizing those who refuse to do so. Both of these types of indirect control are, in our opinion, reprehensible and should be opposed. Our attention has been called to the following language of the Supreme Court in a recent case, in which it characterized attempts on the part of Congress to accomplish by indirection objects it was forbidden to regulate directly:

> "Congress cannot, under the pretext of executing delegated power, pass laws for the accomplishment of objects not intrusted to the Federal Government. And we accept as established doctrine that any provision of an act of Congress ostensibly enacted under power granted by the Constitution, not naturally and reasonably adapted to the effective exercise of such power, but solely to the achievement of something plainly within power reserved to the States, is invalid, and cannot be enforced."
>
> (Linder v. United States, 268 U. S. 17)

The attempt to regulate conditions of production and the internal affairs of business organizations through a licensing system is a palpable evasion and an attempt to do in a new way what the court has consistently held to be beyond the federal power.

Control Through Government Contracts, Loans and Grants

So far as government contracts are concerned, we agree absolutely that the government should make all necessary regulations to insure that it gets a dollar value for every dollar of public money expended. That is a duty as well as a privilege. But to go beyond that and to try, through misuse of its power, to regulate purely local matters of production through control of contractor and subcontractors, is to pervert a protective device and translate it into an instrument of boycott, oppression and discrimination.

Irrespective of legal objections to such a course, it is obvious that the imposition of restrictive conditions upon bidders, narrows the field of competition, increases the cost of goods to the government, and tends directly toward monopoly. Such a system operates with a special harshness against small bidders who cannot maintain staffs in Washington on the one hand, or who cannot possibly absorb the additional costs of compliance and regulation on the other. It also restricts the production of goods for government use as against goods produced for private markets, thus diminishing the extent of industry available to serve government requirements. Such legislation also breeds bureaucracies because of the difficulty of policing the rigid conditions of production in mine, farm, and factory, an overwhelming task.

The objection becomes even more pronounced when we extend the legislation beyond the field of government contracts and into the field of government

clearly pointed out by the Supreme Court. There are, of course, many ways in which the Federal Government can attempt to extend its control by indirection. Some of these methods may be beyond judicial attack. Some should remain our condemnation. Thus the government, by enduring into open competition with its citizens, may produce a competitive situation so lucrative as to drive private industry out of the field or force it to operate under conditions agreeable to the government. Again, the taxing power may be misused so as to produce inequalities in taxation, favoring those who will accept Federal control agreeable to the party in power, and penalizing those who refuse to do so. Both of these types of indirect control are, in our opinion, reprehensible and should be opposed. Our attention has been called to the following language of the Supreme Court in a recent case, in which it characterized attempts on the part of Congress to accomplish by indirection objects it was forbidden to regulate directly:

> "Congress cannot, under the pretext of exercising delegated power, pass laws for the accomplishment of objects not intrusted to the federal government. And we accept as established doctrine that any regulation of an act of Congress ostensibly founded under power granted by the Constitution, but materially and fundamentally adapted to the effective exercise of such power, but solely to the achievement of something plainly within power reserved to the States, is invalid, and cannot be enforced."
>
> (Linder v. United States, 268 U. S. 17)

The attempt to regulate conditions of production and the internal affairs of business organizations through a licensing system is a palpable evasion and an attempt to do in a new way what the courts have consistently held to be beyond the Federal power.

Control Through Government Contracts, Loans and Grants

So far as government contracts are concerned, we agree absolutely that the government should make all necessary regulations to insure that it gets a dollar value for every dollar of public money expended. That is a duty as well as a privilege. But to go beyond that and to try, through misuse of its power, to regulate purely local matters of production through control of contractor and subcontractors, is to pervert a constitutional device and transcend it for an instrument of tyranny, oppression and disenfranchisement.

Irrespective of legal objections to such a course, it is obvious that the imposition of restrictive conditions upon bidders, narrows the field of competition, increases the cost of goods to the government, and tends directly toward monopoly. Such a system coupled with a general Federal program which cannot intelligently enter to regulate on the one hand, or who cannot possibly absorb the additional costs of compliance and regulation on the other. It also restricts the production of goods for government use as against goods produced for private markets, thus disturbing the system of industry available to serve government requirements. Such legislation sets up unsound distortions because of the difficulty of applying the right economic theory of production in wise, fair, and factory, to controversially basic.

The objection becomes even more pronounced when we extend the legislation beyond the field of government contracts and into the field of government

loans and grants. It is idle to say that the borrower or a grantee of federal funds voluntarily assumes the regulations proposed. This overlooks the necessities of the borrower. It is the argument made from time immemorial against usury statutes. It has long been held that the Federal Government may not levy taxes upon the states or instrumentalities thereof because, as Chief Justice John Marshall so well said, --"The power to tax involves the power to destroy," and if the Federal Government could tax the states it could ultimately deprive them of their sovereignty. But the power to regulate local labor conditions by laying down far-reaching affirmative requirements in connection with grants to states and municipalities, may as effectually deprive our state and local governments of sovereignty as any tax statute which the Federal Government might pass. The traditional policy of the United States from its inception has been that in its purchases of supplies and materials, the government would deal through open competition with the lowest responsible bidder. We had better adhere to that policy which unquestionably has not only operated to the great benefit of the government itself, but of those doing business with the government and the public at large. Let the government make any necessary regulations and inspections to insure that materials delivered to it comply with the specifications. Let it make any reasonable bonding requirements to insure the responsibility of the contractor. But let it not go beyond that and undertake, by a misuse of its power, to control the intimate detailed conditions of production and manufacture of the goods which it purchases.

Let it pursue the same policy with respect to loans and grants. Let it establish any regulations necessary to insure the repayment of public monies loaned for legitimate purposes. But having the power to take the property of the citizen for a public use, and having the further power to regulate, even to the point of extinction, private banking facilities, let it not misuse its power by taking advantage of the necessities of the borrower and laying down conditions which have no reasonable relation to the security of the loan and its ultimate repayment.

Perversion of Federal Taxing Power

Federal taxes should be used only to support the constitutional functions of the national government. They should not be employed for local purposes, to redistribute wealth or to regulate those matters which the Constitution leaves in the domain of the states.

Government Competition

Of "Government Competition and 'Yard Sticks'", we declared in our Platform a year ago:

> "The Government's true function is to protect and promote the economic activities of its citizens, not to supplant them. The Government has no right to divert taxes received from its citizens into instruments for their injury or destruction. But it has entered the field of private business on a wide scale engaging in a large number of activities which directly compete with its own taxpayers.

"The Government should withdraw as soon as possible from competition with private business."

The Reconstruction Finance Corporation has, in a number of cases, extended loans or entered into commitments to expand existing units in certain industries already built to a point in excess of any present or reasonably prospective demand. This practice does not in the remotest degree promote the purpose of the Act in "maintaining and increasing the employment of labor" - in fact, the effect on employment is definitely harmful in that it discourages private enterprise upon which rests the responsibility for creating and maintaining employment. Your Committee opposes this harmful practice and urges its discontinuance.

Federal Use of Corporate Devices

Contrary to established practice, the present Administration has formed a large number of Corporations and Holding Companies to carry on various projects. This practice emphasizes the increasing entry of government into business operations. There are great dangers inherent in this course. Effective governmental control over the borrowings and expenditures of these corporations is impossible. The tendency is toward secrecy in operation and to employment of personnel without regard to Civil Service requirements. The complexity of their operations makes liquidations slow and expensive. Save in exceptional cases, where a strictly Federal purpose is to be achieved, the practice of incorporating Federal agencies should be abandoned. Where such corporations are formed, they should operate under the same rules as to borrowing, expenditures, and auditing, as the regular departments of government.

Use of Extra-Legal Penalties

Your Committee has noted with especial concern the various proposals in pending statutes to enforce federal regulations of local matters by denying to violators or those who will not comply, the right to engage in interstate commerce or to use the mails. We recognize fully that Congress has the power and the duty of adopting all necessary regulations of interstate commerce, and of the postal service. No person has a right to use the mails to defraud or to accomplish other improper purposes, nor to ship in commerce things which are in their very nature contraband, or deleterious, or harmful to the commerce of which they are a part. The primary function of Congress, however, in its power to regulate commerce is to protect commerce and not to prohibit it. The type of enforcement now so frequently proposed is obviously predicated on the theory that the right to engage in interstate commerce and the right to use the mails are not fundamental rights of the individual person but are simply privileges to be conferred or withheld by Congress. This is not true either in fact or in law. The right to engage in commerce, as the Supreme Court has often pointed out, antedated the Constitution and was secured by that instrument. The power of Congress is confined to the regulation of that commerce, which of course includes affirmative measures designed to foster or promote commerce, but it does not extend to regulation of the right to engage in commerce as a matter of privilege or penalty. We are firmly of opinion that any regulatory legislation passed by Congress, whether based upon the commerce power or any other power, should be accompanied only by the traditional and well understood types of penalties, namely, fines or imprisonments,

The Conservation Finance Corporation has, in a number of cases, extended loans or entered into commitments to expand existing units in certain industries already built to a point in excess of any present or reasonably prospective demand. This practice does not in the smallest degree promote the purpose of the Act to "maintain and increase the employment of labor" - in fact, the effect on employment is definitely harmful in the extreme by encouraging private enterprise upon which rests the responsibility for creating and maintaining employment. Your Committee opposes this harmful practice and urges the discontinuance.

Federal Use of Corporate Devices

Contrary to established practice, the present Administration has formed a large number of Corporations and Holding Companies to carry on various projects. This practice emphasizes the increasing entry of government into business operations. There are great dangers inherent in this course. Effective governmental control over the borrowing and expenditures of these corporations is impossible. The tendency is toward secrecy in operation and to employment of personnel without regard to Civil Service requirements. The complexity of their operations makes injudicious slow and expensive. Save in exceptional cases, where a strictly federal purpose is to be achieved, the practice of incorporating Federal agencies should be abandoned. Where such corporations are formed, they should operate under the same rules as to borrowing, expenditures, and auditing, as the regular departments of government.

Use of Extra-Legal Formalities

Your Committee has noted with especial concern the various proposals in pending statutes to enforce Federal regulations of local matters by denying to violators or those who will not comply, the right to engage in interstate commerce or to use the mails. We recognize fully that Congress has the power and the duty of adopting all necessary regulations of interstate commerce, and of the postal service. No person has a right to use the mails to defraud or to accomplish other improper purpose, nor to ship in commerce things which are in their very nature contraband, or deleterious, or harmful to the commerce of which they are a part. The primary function of Congress, however, in the type of enforcement now so frequently proposed is obviously predicated on the theory that the right to engage in interstate commerce and the right to use the mails are not fundamental rights of the individual person but are simply privileges to be conferred or withheld by Congress. This is not true either in fact or in law. The right to engage in commerce, as the Supreme Court has often pointed out, antedates the Constitution and was secured by that instrument. The power of Congress is confined to the regulation of that commerce, which of course includes affirmative measures designed to foster or promote commerce; but it does not extend to regulation of the right to engage in commerce as a matter of privilege or penalty. We are firmly of opinion that any regulatory legislation passed by Congress, whether based upon the commerce power or any other power, should be accompanied only by the traditional and well understood types of penalties, namely, fines or imprisonments,

or, in proper cases, the right of the executive departments to secure injunctions in proper proceedings. This principle of enforcement of federal statutes by executive application of penalties deprives the accused of his legal rights prior to his conviction through judicial procedure - a deprivation which violates every principle of American jurisprudence.

SUMMARY AND CONCLUSION

We conclude our report with a few paragraphs by way of summary:

The President of the United States has recently said that the time has come for a "breathing spell" for industry. Industry needs more than a breathing spell. What is needed is not a temporary cessation of regulatory legislation but in the familiar language of the Federal statutes a "cease and desist" order, and a removal of strait-jacket legislation. This will give private industry, private labor, and private initiative in every form a real chance to demonstrate its capacity to work out its own salvation.

For more than two years, private enterprise waited with uncertainty for some clear indications as to whether it or government was to carry on its activities. During this period, while the accumulated need for many kinds of goods was building up an irresistible demand, recovery was blocked, reemployment of idle workers was largely at a standstill. The unanimous decision of the Supreme Court holding the National Industrial Recovery Act unconstitutional, and other decisions of similar import, gave business encouragement to believe that Constitutional guarantees would prevail, and that it and not government would continue to direct productive enterprise. With this encouragement the accumulated demand began to be effective and the country has since enjoyed a longer period of marked and sustained recovery than at any time since the beginning of the depression. Despite the improvement which has followed from even this partial removal of the impediments to recovery, other restrictive legislation has been enacted and legislative proposals of a similar kind are awaiting legislative action.

Industry cannot operate efficiently when it is constantly besieged with experimental legislation, regulation, restriction, government competition, and oppressive taxation. Contrary to the impression which is being manufactured by some who have an object to attain thereby, industry is not asking for any new legislation conferring upon it exemptions from laws established to prevent monopolistic practices. AS BETWEEN THE PRESENT ANTI-TRUST LAWS, THE SCOPE OF WHICH CONTINUES TO BE JUDICIALLY INTERPRETED AFTER A PERIOD OF FORTY-FIVE YEARS, ON THE ONE HAND, AND NEW LEGISLATION OF THE TYPE OF THE NATIONAL INDUSTRIAL RECOVERY ACT, WHICH PURPORTED TO GRANT LIMITED EXEMPTIONS FROM THE ANTI-TRUST LAWS, ON THE OTHER, WE UNHESITATINGLY CHOOSE THE ANTI-TRUST LAWS.

Our Federal fiscal situation grows increasingly serious. We are faced with higher taxation, further monetary manipulation, repudiation, or a combination of the three. The burden of paying for what has already been done is gigantic enough without the imposition of additional burdens. We stand for the earliest possible balancing of the Federal budget to be brought about to the fullest extent possible through retrenchment in expenditures. We call attention to the fact that while a large portion of our spending is due to the necessities arising out of a widespread unemployment situation, nevertheless a

considerable portion is due to the expenses incident to administration of the various regulatory laws which have been passed. The surest way to stem the tide of spending of this character is to stop passing legislation which involves large expenditures in policing and administration.

The division of jurisdiction and responsibility between the Federal Government on the one hand, and the state and local governments on the other, has been to a large extent ignored during the past two and one-half years. This division is not merely a theoretical or legalistic one. It is a practical one arising partly out of necessity and partly out of a recognition that local control over local matters is essential to preservation of a federated representative form of government. The tendency to ignore the boundaries of Federal action or to overstep them either directly or through evasion and subterfuge, is one which must stop if we are not to have a centralization of power and authority in Washington culminating in Fascism or some other form of government equally inconsistent with the ideals and traditions of the American people.

We should re-examine recent legislation in this light. Much of it was subversive in character; ill-considered, hastily and carelessly drafted and passed without the deliberation and legislative scrutiny required by its tremendous importance. Because of these defects, they have created a fear psychology which has retarded recovery.

WE JOIN IN THE DEMAND MADE BY EVERY ENLIGHTENED ECONOMIC ORGANIZATION FOR ABANDONMENT OF THE PHILOSOPHY THAT PROSPERITY CAN BE PRODUCED THROUGH CURTAILING PRODUCTION, WHETHER IN AGRICULTURE OR IN INDUSTRY. THE TRULY ABUNDANT LIFE CAN BE SPONSORED ONLY BY ABUNDANT PRODUCTION OF THE THINGS THAT ENRICH THE LIVES OF ALL.